

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ANTHONY MENDES
AND DORIS MENDES,

Plaintiffs,

v.

CENDANT MORTGAGE,

Defendant.

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C. A. No.: 05-11765-DPW

AFFIDAVIT OF CHRISTOPHER J. TROMBETTA

I, Christopher J. Trombetta, hereby depose and say:

1. I am a member in good standing of the bar of the Commonwealth of Massachusetts. There are no pending disciplinary proceedings against me and I have never been subject to such a proceeding.

2. Attached as Exhibit A are true and accurate copies of pages from the deposition of Anthony Mendes.

3. Attached as Exhibit B are true and accurate copies of pages from the deposition of Doris Mendes.

4. Attached as Exhibit C are true and accurate copies of pages from the deposition of Richard Luongo.

5. Attached as Exhibit D are true and accurate copies of pages from the deposition of Clair Taylor.

6. Attached as Exhibit E are true and accurate copies of a government underwriting worksheet produced by Cendant Mortgage.

7. Attached as Exhibit F are true and accurate copies of a government underwriting worksheet produced by Cendant Mortgage.

8. Attached as Exhibit G is a true and accurate copy of a loan application.

9. Attached as Exhibit H is a true and accurate copy of the expert report of Connor Shortsleeve.

Signed under penalties of perjury this 23rd day of October 2006.

s/Christopher J. Trombetta

Christopher J. Trombetta

EXHIBIT A

Anthony Mendes

06/01/2006

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COMMONWEALTH OF MASSACHUSETTS

Bristol, ss.

Superior Court Dept.

Civil Action No. B05-809

ANTHONY MENDES AND DORIS MENDES,

Plaintiffs,

vs.

CENDANT MORTGAGE CORPORATION,

Defendant.

DEPOSITION OF ANTHONY MENDES

JUNE 1, 2006 - 10:35 A.M.

FOLEY & LARDNER

111 HUNTINGTON AVENUE

BOSTON, MASSACHUSETTS

Reporter: Donna J. Whitcomb, CSR/RPR/RMR

Anthony Mendes

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2 (Pages 2 to 5)

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<p style="text-align: right;">Page 10</p> <p>1 education after high school?</p> <p>2 A. Yes, I got a certificate program. I was</p> <p>3 in a certificate program. Basically six to eight</p> <p>4 week course.</p> <p>5 Q. What was the certificate in?</p> <p>6 A. Food service supervisor.</p> <p>7 Q. Any other formal education?</p> <p>8 A. That's it basically.</p> <p>9 Q. Where are you employed now?</p> <p>10 A. I'm at the Sherill -- I'm sorry, I'm at</p> <p>11 the Ellis Nursing Home in Norwood.</p> <p>12 Q. Ellis?</p> <p>13 A. Yeah.</p> <p>14 Q. With an "E"?</p> <p>15 A. Yes.</p> <p>16 Q. When did you start there?</p> <p>17 A. 2004.</p> <p>18 Q. What's your position there?</p> <p>19 A. I'm a full-time cook.</p> <p>20 Q. Before you were working at Ellis Nursing</p> <p>21 Home where were you working?</p> <p>22 A. 2004 at the River Bend Nursing Home in</p> <p>23 Natick, Mass.</p> <p>24 Q. What was your position there?</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. I'm working backwards. We can go the</p> <p>2 other way if you get confused. Where were you</p> <p>3 before Hancock Manner Nursing Home?</p> <p>4 A. I was at the Wingate at Brighton.</p> <p>5 Q. Wingate in Brighton?</p> <p>6 A. Yeah.</p> <p>7 Q. That's a nursing home?</p> <p>8 A. Yes.</p> <p>9 Q. Run by the Schusters?</p> <p>10 A. Yes.</p> <p>11 Q. How long were you there for?</p> <p>12 A. I believe a couple of years.</p> <p>13 Q. What was your position there?</p> <p>14 A. Food service director.</p> <p>15 Q. What was your reason for leaving there?</p> <p>16 A. Basically got another position and moved</p> <p>17 on to Hancock.</p> <p>18 Q. Okay. And before Wingate where were you?</p> <p>19 A. I was at -- before Wingate I was with</p> <p>20 Meadow Brook.</p> <p>21 Q. Meadow Brook Nursing Home?</p> <p>22 A. Yeah, yes.</p> <p>23 Q. For what period of time?</p> <p>24 A. I was there for a year.</p>
<p style="text-align: right;">Page 11</p> <p>1 A. I was the food service director there.</p> <p>2 Q. Why did you leave the River Bend Nursing</p> <p>3 Home?</p> <p>4 A. Basically left because there was changes</p> <p>5 in management so my boss moved on and then I decided</p> <p>6 to move on.</p> <p>7 Q. Was it voluntary on your part?</p> <p>8 A. Yeah.</p> <p>9 Q. Before you were at River Bend Nursing Home</p> <p>10 where were you?</p> <p>11 A. Hancock Manner in Dorchester.</p> <p>12 Q. And doing what?</p> <p>13 A. Hancock Manner, nursing home in</p> <p>14 Dorchester.</p> <p>15 Q. For what period of time?</p> <p>16 A. I was there from '98 to 2000.</p> <p>17 Q. What was your position?</p> <p>18 A. Food service director.</p> <p>19 Q. What was your reason for leaving there?</p> <p>20 A. I basically left that to move on to</p> <p>21 another position that was, you know, more money and</p> <p>22 benefits involved so I accepted it.</p> <p>23 Q. And that was at River Bend?</p> <p>24 A. Right.</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. So about '97 to '98 -- or, I'm sorry, '95</p> <p>2 to '96?</p> <p>3 A. Right.</p> <p>4 Q. What was your position there?</p> <p>5 A. I was a cook there.</p> <p>6 Q. Have you been a cook since you graduated</p> <p>7 high school?</p> <p>8 A. Basically, yes.</p> <p>9 Q. Okay.</p> <p>10 A. Basically worked my way into the position.</p> <p>11 Q. Okay.</p> <p>12 A. Yeah. That's basically job of a food</p> <p>13 service director.</p> <p>14 Q. Let's go back a little bit more. Where</p> <p>15 were you before Meadow Brook Nursing Home?</p> <p>16 A. I was at the Neponset Hall Nursing Home.</p> <p>17 Q. For what period of time?</p> <p>18 A. I was there about a year.</p> <p>19 Q. What was your position there?</p> <p>20 A. I was a cook there.</p> <p>21 Q. And before Neponset Hall Nursing Home</p> <p>22 where were you employed?</p> <p>23 A. I was at the Sherill House Nursing Home in</p> <p>24 Jamaica Plain.</p>

4 (Pages 10 to 13)

Anthony Mendes

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<p style="text-align: right;">Page 42</p> <p>1 A. Right.</p> <p>2 MR. TROMBETTA: Well, I sort of</p> <p>3 object to what you're telling him. You're asking</p> <p>4 for a comparison in general terms.</p> <p>5 MR. GOLDSTEIN: I haven't asked that</p> <p>6 question again yet.</p> <p>7 MR. TROMBETTA: Well, I think you</p> <p>8 did.</p> <p>9 MR. GOLDSTEIN: Well, I might have</p> <p>10 before not yet.</p> <p>11 MR. TROMBETTA: I objected, I let him</p> <p>12 answer, but if you're asking for a -- you asked for</p> <p>13 a comparison. I think he's trying to give that to</p> <p>14 you.</p> <p>15 Q. Let me put this in context again. If you</p> <p>16 had purchased 1-3 Chilson --</p> <p>17 A. Right.</p> <p>18 Q. -- you were going to live in a two-bedroom</p> <p>19 unit, correct?</p> <p>20 A. That's correct.</p> <p>21 Q. What other rooms were in the two-bedroom</p> <p>22 unit?</p> <p>23 A. There was two bedrooms, a kitchen, a</p> <p>24 bathroom, and a living room.</p>	<p style="text-align: right;">Page 44</p> <p>1 sorry.</p> <p>2 Q. Okay, how much more living space do you</p> <p>3 have at the School Street property compared to the</p> <p>4 living space you would have had in the two-bedroom</p> <p>5 unit at 1-3 Chilson Street?</p> <p>6 A. Basically couple of extra rooms. Couple</p> <p>7 of extra rooms.</p> <p>8 Q. Can you quantify it? Is it twice as much</p> <p>9 room or --</p> <p>10 A. I would say. Yeah, I would say so.</p> <p>11 Q. All right, if you turn to the third page</p> <p>12 of Exhibit 2?</p> <p>13 A. Third page?</p> <p>14 Q. Actually, why don't you turn to the last</p> <p>15 page. Paragraph 6 on the last page of Exhibit 2 is</p> <p>16 is a mortgage contingency clause, correct?</p> <p>17 A. Yes.</p> <p>18 Q. And that was filled out when you signed</p> <p>19 this last page of Exhibit 2?</p> <p>20 A. Yes.</p> <p>21 Q. All right. All right, let's go back to</p> <p>22 Exhibit 1, your complaint. Could you turn to page 2</p> <p>23 of your complaint? In paragraph 4 there's an</p> <p>24 allegation that states, quote, Mr. and Mrs. Mendes</p>
<p style="text-align: right;">Page 43</p> <p>1 Q. Do you know the square footage of that</p> <p>2 unit?</p> <p>3 A. No, not offhand.</p> <p>4 Q. And the Chilson lot, the area of the lot</p> <p>5 on Chilson Avenue was a lot smaller than the lot you</p> <p>6 have now, correct?</p> <p>7 A. Much smaller.</p> <p>8 Q. And you have more living space at your</p> <p>9 School Street property than you would have had in</p> <p>10 the two-bedroom unit on Chilson Ave., correct?</p> <p>11 A. That's correct.</p> <p>12 Q. Do you know how much more?</p> <p>13 A. Mathematically, no.</p> <p>14 Q. Twice as much?</p> <p>15 MR. TROMBETTA: Well --</p> <p>16 Q. If you know?</p> <p>17 MR. TROMBETTA: I'll object. You can</p> <p>18 answer.</p> <p>19 A. Oh, naturally Mansfield's got more room.</p> <p>20 Q. I'm talking about the house on School</p> <p>21 Street, not Mansfield.</p> <p>22 A. (Pause)</p> <p>23 Q. Do you understand the question?</p> <p>24 A. No, I don't. I'm a little confused, I'm</p>	<p style="text-align: right;">Page 45</p> <p>1 -- well, let me read the whole thing from the</p> <p>2 beginning. Paragraph 4 of your complaint reads:</p> <p>3 Cendant directed Mr. and Mrs. Mendes to apply for an</p> <p>4 FHA loan. Mr. and Mrs. Mendes did so only because</p> <p>5 Cendant directed them to do so, close quote; do you</p> <p>6 see that?</p> <p>7 A. Yes, I see it.</p> <p>8 Q. Is that a true statement?</p> <p>9 A. That's a true statement.</p> <p>10 Q. Who at Cendant allegedly directed you to</p> <p>11 apply for an FHA loan?</p> <p>12 A. The person who took the application. His</p> <p>13 name is Richard.</p> <p>14 Q. Is that Richard Luongo?</p> <p>15 A. That's correct.</p> <p>16 Q. How did you get hooked up with Cendant</p> <p>17 Mortgage?</p> <p>18 A. Good question. Good question. Very good</p> <p>19 question.</p> <p>20 Q. Do you know the answer?</p> <p>21 A. Oh, I'll have it for you. I just got to</p> <p>22 think because it's so far back.</p> <p>23 Q. Take your time.</p> <p>24 A. Let me see. Can you present the question</p>

12 (Pages 42 to 45)

Anthony Mendes

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<p style="text-align: right;">Page 46</p> <p>1 again, please?</p> <p>2 Q. How did you first come to work with</p> <p>3 Cendant Mortgage in 2001?</p> <p>4 A. Century 21. I had to think.</p> <p>5 Q. That's okay. Century 21 referred you to</p> <p>6 Cendant Mortgage?</p> <p>7 A. Yes.</p> <p>8 Q. And that's the brokers whose name you</p> <p>9 don't remember, correct?</p> <p>10 A. I don't remember and -- what's your first</p> <p>11 name, again, "Andrew"?</p> <p>12 Q. Yes.</p> <p>13 A. Andrew, we had her -- I can't think of her</p> <p>14 name -- we had her and I wasn't really happy with</p> <p>15 her. I wasn't. Because she was -- she was showing</p> <p>16 me -- she was trying to push me to buy.</p> <p>17 Q. Okay?</p> <p>18 A. And I -- you know, when she showed me the</p> <p>19 two-family and was trying to push me to buy, I</p> <p>20 didn't really like it, my wife didn't care for it.</p> <p>21 So I took that information when I was approved and I</p> <p>22 got another broker and just went forward with it.</p> <p>23 Q. How did you --</p> <p>24 A. I got Paula.</p>	<p style="text-align: right;">Page 48</p> <p>1 Cendant. So she gave me the number and I called</p> <p>2 them and they took an application.</p> <p>3 Q. Do you remember the first person you spoke</p> <p>4 to at Cendant?</p> <p>5 A. Richard Luongo.</p> <p>6 Q. Was that in regard to the two-family?</p> <p>7 A. It was in regard to the two-family to</p> <p>8 be -- to get approved, qualified.</p> <p>9 Q. Did you ever meet Richard Luongo?</p> <p>10 A. No, never.</p> <p>11 Q. Did you ever meet anyone from Cendant?</p> <p>12 A. No.</p> <p>13 Q. This was all by -- on the phone, correct?</p> <p>14 A. Everything was done by phone.</p> <p>15 Q. When you made your offer to purchase 1 to</p> <p>16 3 Chilson -- is it Chilson Avenue or Street? I've</p> <p>17 seen both.</p> <p>18 A. I always thought it was Chilson Ave.</p> <p>19 Q. Why don't you refer to it as the Chilson</p> <p>20 Avenue property, is that okay?</p> <p>21 A. No problem.</p> <p>22 Q. That will be 1 to 3 Chilson Avenue in</p> <p>23 Mansfield.</p> <p>24 A. Okay, that's good.</p>
<p style="text-align: right;">Page 47</p> <p>1 Q. Right, okay. So -- but the broker at</p> <p>2 Century 21, what did she say to you about Cendant;</p> <p>3 do you recall?</p> <p>4 A. No, I basically got tired of living at</p> <p>5 Bridge Street, decided I wanted to buy a house. Me</p> <p>6 and her were saving to buy the house.</p> <p>7 Q. You and Doris?</p> <p>8 A. Yeah, we were saving. Took us a long time</p> <p>9 to do it, I'll tell you. Just got tired of living</p> <p>10 at Bridge Street and called Century 21, Elizabeth</p> <p>11 Graylon (phonetic) Realtors down in Dedham. And</p> <p>12 offhand I can't -- I can't think of the person's</p> <p>13 name but...</p> <p>14 Q. Is it a woman?</p> <p>15 A. It was a woman, yes.</p> <p>16 Q. Okay.</p> <p>17 A. I can't think of her name offhand.</p> <p>18 Q. Is it Shamikah Solomon?</p> <p>19 A. No.</p> <p>20 Q. All right, okay, and that person in any</p> <p>21 event --</p> <p>22 A. Evidently said to me -- I says, how do I</p> <p>23 start the process of -- I want to buy a piece of</p> <p>24 property. She says you can get approved through</p>	<p style="text-align: right;">Page 49</p> <p>1 Q. It will save my mouth and some work. The</p> <p>2 offer you made on June 12th, 2001 for the Chilson</p> <p>3 Avenue property -- let me just get that back out for</p> <p>4 a second. That's Exhibit 2. It has a purchase</p> <p>5 price that was agreed to of \$305,000, correct?</p> <p>6 A. That is correct.</p> <p>7 Q. Could you have put 20 percent down toward</p> <p>8 that purchase?</p> <p>9 A. No.</p> <p>10 Q. In 2001?</p> <p>11 A. No.</p> <p>12 Q. Could you have put 10 percent down, 30,500</p> <p>13 in 2001?</p> <p>14 A. No, first-time buyer.</p> <p>15 Q. What does first-time buyer have to do with</p> <p>16 your answer?</p> <p>17 A. (Pause)</p> <p>18 Q. I'm asking you whether you had sufficient</p> <p>19 funds, whether you were a first-time buyer or</p> <p>20 tenth-time buyer, in the summer of 2001 to put 10</p> <p>21 percent down?</p> <p>22 A. No.</p> <p>23 Q. Toward the purchase of Chilson Avenue?</p> <p>24 A. No, no.</p>

13 (Pages 46 to 49)

Anthony Mendes

06/01/2006

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<p>1 Q. Did he use the word "guaranteed"?</p> <p>2 A. Yeah.</p> <p>3 Q. So you thought at that point there was a</p> <p>4 guaranteed loan from Cendant to you?</p> <p>5 A. Yes.</p> <p>6 Q. Did you read this whole document that's</p> <p>7 marked as Exhibit 4 when you got it?</p> <p>8 A. Most of it -- some of it. I was just so</p> <p>9 anxious to purchase.</p> <p>10 Q. Did you read -- go to page 3 of Exhibit 4.</p> <p>11 A. Page 3, this one?</p> <p>12 Q. Yes, did you read this page?</p> <p>13 A. If I could remember.</p> <p>14 Q. Well, can you remember?</p> <p>15 A. I really can't.</p> <p>16 Q. Did you read through Step 3?</p> <p>17 A. Not really.</p> <p>18 Q. You had a chance to, though, right?</p> <p>19 A. Yeah, I did.</p> <p>20 MR. GOLDSTEIN: Let's just mark this</p> <p>21 separately as Exhibit 5.</p> <p>22 (Document marked as Exhibit No. 5</p> <p>23 for identification.)</p> <p>24 Q. I'm just going to want you to identify</p>	<p>1 what you've testified to did you have any other</p> <p>2 agreements with Cendant Mortgage?</p> <p>3 A. No, no.</p> <p>4 Q. Do you contend that you had any oral</p> <p>5 agreements with Cendant Mortgage?</p> <p>6 A. No.</p> <p>7 MR. TROMBETTA: I'll just -- never</p> <p>8 mind.</p> <p>9 A. No.</p> <p>10 Q. After your offer was accepted what</p> <p>11 happened next in regard to your proposed purchase of</p> <p>12 the Chilson Avenue property?</p> <p>13 A. Excuse me, come again, Andrew, please?</p> <p>14 Q. Well, after your offer to purchase Chilson</p> <p>15 Avenue was accepted --</p> <p>16 A. Yes.</p> <p>17 Q. -- and I'll tell you it says June 14th on</p> <p>18 the document it was accepted, what steps did you</p> <p>19 then take to further your purchase of that property?</p> <p>20 A. Signed a purchase and sale agreement.</p> <p>21 Q. Did you take any other steps to get a</p> <p>22 loan?</p> <p>23 A. No.</p> <p>24 Q. Did you sign any applications?</p>
Page 111	Page 113
<p>1 that. I'm not going to ask you any more questions</p> <p>2 about it at this time. Do you know what Exhibit 5</p> <p>3 is?</p> <p>4 A. Yes.</p> <p>5 Q. What is Exhibit 5?</p> <p>6 A. They say again guaranteed financing.</p> <p>7 Q. Is that the same letter that was marked as</p> <p>8 Exhibit B to the complaint?</p> <p>9 A. Yes.</p> <p>10 Q. All right, let's go back to the complaint</p> <p>11 for the moment and go into the body of the</p> <p>12 complaint. On page 4 to 5 we were talking about one</p> <p>13 count of the complaint for breach of contract?</p> <p>14 A. On page 4?</p> <p>15 Q. Yes, at the bottom is Count 1, breach of</p> <p>16 contract?</p> <p>17 A. One second, Andrew, please. Where is that</p> <p>18 at, Andrew, please?</p> <p>19 Q. That's right here, Count 1?</p> <p>20 A. Oh, okay, I missed it.</p> <p>21 Q. And then flip it over to the next page.</p> <p>22 We went over the allegations about Cendant agreeing</p> <p>23 to provide you and your wife with financing and</p> <p>24 there was a breach of that agreement. Other than</p>	<p>1 A. Signed a purchase and sales agreement and</p> <p>2 also gave them, if I could remember, Andrew, a large</p> <p>3 deposit that was required.</p> <p>4 Q. Where did that deposit come from, by the</p> <p>5 way?</p> <p>6 A. You're funny, Andrew. I don't mean to --</p> <p>7 you're funny. Me and my wife's savings.</p> <p>8 Q. What account; do you know?</p> <p>9 A. Citizens Bank.</p> <p>10 Q. Citizens Bank, okay.</p> <p>11 A. Yeah, she had money in Citizens and if I</p> <p>12 can remember, Andrew, also Metropolitan Credit</p> <p>13 Union, if I could remember.</p> <p>14 Q. Did anyone provide you with any funds so</p> <p>15 you could make the down payment toward the Chilson</p> <p>16 Avenue property?</p> <p>17 A. No, no, Andrew.</p> <p>18 Q. Where is the Metropolitan Credit Union, by</p> <p>19 the way?</p> <p>20 A. In Framingham.</p> <p>21 Q. Does it still exist?</p> <p>22 A. Yes, they do, Andrew.</p> <p>23 Q. Was that your wife's account there?</p> <p>24 A. Yes, yes.</p>

29 (Pages 110 to 113)

Anthony Mendes

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<p style="text-align: right;">Page 126</p> <p>1 Q. Did anyone at Cendant tell you that there 2 were no commitments in Exhibit 7? 3 A. No. 4 Q. If you would you look at the third page of 5 Exhibit 7, you signed this page, correct? 6 A. Yes. 7 Q. There's not much writing on this page, is 8 there, correct? 9 A. No. 10 Q. And there's one heading on the page that 11 says, C, Conditions to Commitment Continued; do you 12 see that? 13 A. Where is that at? 14 (Mr. Goldstein indicating) 15 A. Go ahead. 16 Q. Did you read that before you signed this 17 document? 18 A. No. 19 Q. Did anyone force you to sign this 20 document? 21 A. The -- Kevin Cogan said sign it and send 22 it back. 23 Q. He didn't force you to sign it? 24 A. He --</p>	<p style="text-align: right;">Page 128</p> <p>1 *Q. Now, between the date of the purchase and 2 sale agreement, which is July 6th, 2001 and the date 3 of the final commitment, August 17th, 2001 as shown 4 on Exhibit 7, what additional steps did you take, if 5 any, to secure a mortgage to buy the Chilson Avenue 6 property? 7 A. Please, Andrew, come again? I don't mean 8 to have you repeat. I just want to be able to 9 answer it. 10 MR. GOLDSTEIN: I'm not going to 11 repeat it. Would you read it back? 12 (*Record read as requested) 13 Q. Let me just clarify that. The final 14 commitment is August 14th. If I said August 17th I 15 misspoke. 16 A. August 14th. 17 Q. What additional steps did you take toward, 18 if any, toward obtaining a mortgage to buy the 19 Chilson Avenue property between the date of the P&S 20 and the date of the final commitment? 21 A. Basically the P&S was signed. Kevin was 22 aware and he said he would work on getting the 23 commitment letter out and he would get closing 24 scheduled and that was it.</p>
<p style="text-align: right;">Page 127</p> <p>1 MR. TROMBETTA: I object. 2 A. He didn't force me but he said sign it and 3 get it back immediately. 4 Q. Did you sign it of your own free will? 5 MR. TROMBETTA: I object. 6 A. I signed it, yeah. 7 Q. No one was holding a gun to your head, 8 right? 9 A. No. 10 Q. Kevin Cogan wasn't in the room when you 11 signed it, right? 12 A. No. 13 Q. You never met Kevin Cogan? 14 A. No. 15 Q. Did he say anything else to you besides 16 sign it and send it back in regard to the execution 17 of Exhibit 7? 18 A. No. 19 Q. Did he threaten you in any way? 20 A. No. 21 Q. Did he do anything to coerce you to sign 22 Exhibit 7? 23 A. No, he just said sign it and send it 24 back.</p>	<p style="text-align: right;">Page 129</p> <p>1 Q. Were you providing any information to 2 Cendant Mortgage to get the commitment letter out? 3 A. I was -- I was and also the brokers. 4 Q. What kind of information were you 5 providing? 6 A. We needed a commitment letter. 7 Q. And Cendant Mortgage told you you needed a 8 commitment letter, correct? 9 A. My brokers did, yeah. 10 Q. What else -- when you say your brokers -- 11 A. I mean, Paula and Greg Abbot. 12 Q. What did they say to you in regard to 13 needing a commitment letter? 14 A. You have to get your commitment letter. 15 Q. Did they tell you why? 16 A. Just it's needed. 17 Q. Did they say anything else as to why it 18 was needed? 19 A. No. 20 Q. Did you understand that you needed a 21 commitment letter before you could get a loan from 22 Cendant Mortgage Corporation? 23 A. Not really, no. 24 Q. Did you ever tell anyone at Cendant</p>

33 (Pages 126 to 129)

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1 Mortgage Corporation that you did not feel bound by
2 the terms of this final commitment?

3 A. No.

4 Q. Did you ever tell anyone at Cendant
5 Mortgage Corporation that you -- let me limit that
6 question. In 2001 did you ever tell anyone at
7 Cendant Mortgage Corporation that you disagreed with
8 any conditions in this commitment letter?

9 A. Can I have the question again, I'm sorry?

10 Q. Did you tell anyone at Cendant Mortgage
11 Corporation in 2001 that you disagreed with any of
12 the conditions that are set forth in this commitment
13 letter?

14 MR. TROMBETTA: Well, I'll object to
15 the form of that question.

16 A. No.

17 Q. You didn't read them, you didn't know they
18 were there, right?

19 A. Right.

20 MR. TROMBETTA: Can we take a quick
21 break?

22 MR. GOLDSTEIN: Absolutely.

23 (A brief recess was taken, 2:05 p.m.)

24 - 2:10 p.m.)

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1 (Documents marked as Exhibit Nos. 8
2 and 9 for identification.)

3 MR. GOLDSTEIN: Do you want to
4 stipulate as to the authenticity, to move this
5 along, that's Exhibit 8 and 9?

6 MR. TROMBETTA: I mean, I don't know
7 if they're authentic or not. I assume that they
8 are. If you can just ask him questions?

9 MR. GOLDSTEIN: They're not his
10 anyway.

11 MR. TROMBETTA: Well, then I'm not
12 going to stipulate.

13 Q. Do you know what Exhibits 8 and 9 are?

14 A. Yeah, statements.

15 Q. Statements for what?

16 A. Bank accounts.

17 Q. For any particular bank accounts?

18 A. Fleet and Citizens.

19 Q. Are those statements for your wife's bank
20 accounts at Fleet and Citizens?

21 A. Yes.

22 Q. Do you have in your possession statements
23 that postdate those two statements?

24 A. Excuse me?

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1 Q. These statements are dated June 19th, 2001
2 and it looks like one's dated May 31st, 2001; do you
3 have any other statements?

4 A. That's about it right now from what I can
5 see other than --

6 Q. I mean, not with you?

7 A. Not with me. Not with me.

8 Q. I mean, at home do you keep your bank
9 statements?

10 A. I don't know, Andrew.

11 Q. Do you recognize those as bank statements
12 from your wife's bank accounts?

13 A. Oh, yes, yes.

14 Q. Okay. When was the first time that you
15 learned that there was a problem with Cendant
16 Mortgage making a loan to you to buy the Chilson
17 Avenue property?

18 A. You're funny. I don't mean to -- come
19 again, Andrew? I'm sorry, because I want to try to
20 answer you.

21 Q. When was the first time that you learned
22 that there was a problem, if any, with Cendant
23 Mortgage Corporation making you a loan on the
24 Chilson Avenue property?

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1 A. The last -- the last week of August 2001.

2 Q. And when did you learn about it?

3 A. It was like three to seven -- I don't
4 know, three to four, five days before closing.

5 Q. Three to four, five days before closing.
6 Okay, and what happened then?

7 A. Kevin Cogan said it's not going to go to
8 closing.

9 Q. What else did he say?

10 A. And I asked him why and he said it was
11 related to rents.

12 Q. Did he say anything else about that?

13 A. He said something about 75 percent of --
14 something to do with market value or something like
15 that.

16 Q. Did he say anything else in regard to that
17 issue that you recall?

18 A. No.

19 Q. And prior to that were there any other
20 problems with your potential purchase of the Chilson
21 Avenue property?

22 A. Not that I was aware of.

23 Q. Well, how long did this conversation with
24 Mr. Cogan last?

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<p style="text-align: right;">Page 134</p> <p>1 A. I was very disgusted and upset. It didn't 2 last long. I would say anywhere from five to eight 3 minutes. 4 Q. Did you talk to anyone else about the rent 5 issue after you got this call from Mr. Cogan? 6 A. No. 7 Q. Did you talk to Paula Duzan? 8 A. Basically I think he had told them, too, 9 because she had mentioned it to me. 10 Q. But did you talk to Paula Duzan about the 11 issue with the rents? 12 A. No, no. 13 Q. Did you talk to Greg Abbot about the issue 14 with the rents? 15 A. I did. 16 Q. What do you recall he said and you said? 17 A. He just said it isn't going to go to 18 closing. Something to do with rents; that's what he 19 said. 20 Q. Did you respond? 21 A. I didn't respond to him. I responded to 22 Kevin Cogan. 23 Q. Well, how did you respond other than what 24 you've already testified to?</p>	<p style="text-align: right;">Page 136</p> <p>1 Q. Well, when you say in the end, when is 2 that? 3 A. The week before. The last week before 4 closing after he said it wasn't going to -- we 5 weren't going to closing. 6 Q. Well -- and that's the first time the 7 issue with the rents came up? 8 A. First time, Andrew. 9 Q. And what happened after that with regard 10 to your proposed purchase of the property? 11 A. The deal fell through. 12 Q. Well, were there any efforts made to 13 address this rent issue? 14 A. No not that I remember. 15 Q. Did you have any other further discussions 16 with Cendant Mortgage regarding the rent issue? 17 A. Not that I could remember. 18 Q. Were there any efforts made to salvage 19 your proposed purchase of the property? 20 A. No. 21 Q. When did you start dealing with Kevin 22 Cogan as opposed to Richard Luongo, was there some 23 sort of break; do you recall? 24 A. Right after it was guaranteed.</p>
<p style="text-align: right;">Page 135</p> <p>1 A. How come it doesn't qualify to go to 2 closing? I mean, how do you back off the deal just 3 when we're all scheduled to close? 4 Q. Did you say anything else to Mr. Cogan? 5 A. No, that was about it. 6 Q. Did you understand at some point that the 7 rent issue that you described was a condition in the 8 final commitment letter? 9 A. Not that I was aware of. 10 Q. Did you ever become aware of that? 11 A. Not until about the last week of August of 12 2001. 13 Q. Okay, so you became aware that there was a 14 condition in the commitment letter in the last week 15 of August 2001 regarding rents, correct? 16 A. When it was scheduled to close, yeah. 17 Q. How did you become aware of that condition 18 in the final commitment letter? 19 A. I spoke to Kevin. 20 Q. Okay, I know you told us there was an 21 issue with the rents; did he specifically discuss 22 with you the condition that was in the final 23 commitment letter regarding rents? 24 A. In the end he mentioned it.</p>	<p style="text-align: right;">Page 137</p> <p>1 Q. Well, when you say guaranteed, when was 2 that, is that the June 12, 2001 letter? 3 A. And prior. 4 Q. How much prior? 5 A. I mean, on the letters that he had sent 6 when I looked at the two-family and the four-family. 7 Q. So you thought those were all guaranties 8 of financing, correct? 9 A. Yes. 10 Q. Did you deal with anyone else at Cendant 11 other than Kevin Cogan? 12 A. That was it. 13 Q. So it's Kevin and Richard? 14 A. Those were the only two. 15 Q. Did you speak to a Shamikah Solomon? 16 A. I don't remember. 17 Q. Isn't it true that after June 12th, 2001 18 you went through a whole application process with 19 Cendant Mortgage to get a loan? 20 MR. TROMBETTA: I'm sorry, when was 21 that? 22 Q. Isn't it true that after June 12th, 2001 23 you went through a whole application process -- 24 A. No.</p>

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<p style="text-align: right;">Page 142</p> <p>1 said I didn't have 20 percent.</p> <p>2 Q. Okay, there was no discussion prior to</p> <p>3 that about a conventional --</p> <p>4 A. No.</p> <p>5 Q. Did your attorney, Lynn Erickson, ever</p> <p>6 tell you that Cendant had told her in early July</p> <p>7 that she had a discussion about applying for a</p> <p>8 conventional loan?</p> <p>9 A. No.</p> <p>10 Q. Was there ever an issue about you paying</p> <p>11 off some sort of a judgment as a condition for the</p> <p>12 loan closing?</p> <p>13 A. Come again, I'm sorry, Andrew?</p> <p>14 Q. Was there ever an issue about your paying</p> <p>15 off a judgment as a condition of the loan closing?</p> <p>16 A. I think I owed a small, little debt with</p> <p>17 Com. Gas and that was paid up and it was all over;</p> <p>18 that was cleared.</p> <p>19 Q. Do you know when that came up?</p> <p>20 A. Oh, that was -- that came like later, way</p> <p>21 later.</p> <p>22 Q. Do you know what month?</p> <p>23 A. No.</p> <p>24 Q. Was it after the P&S was signed?</p>	<p style="text-align: right;">Page 144</p> <p>1 A. No, no.</p> <p>2 Q. How did he know?</p> <p>3 A. Excuse me?</p> <p>4 Q. How did he know?</p> <p>5 A. I processed an application over the phone.</p> <p>6 I mean, I'm sure he had records of that.</p> <p>7 Q. Well, when did you make the downpayment?</p> <p>8 You made a thousand dollar downpayment with the</p> <p>9 offer, correct?</p> <p>10 A. That's correct.</p> <p>11 Q. Where did that come from; do you know?</p> <p>12 A. As far as I know from the bank.</p> <p>13 Q. What bank?</p> <p>14 A. I'm not sure. It could have been</p> <p>15 Citizens. I'm not sure.</p> <p>16 Q. Was it a check?</p> <p>17 A. It was a check if I could remember.</p> <p>18 Q. Did you write it?</p> <p>19 A. No, I had my wife write it.</p> <p>20 Q. Do you know what account it was from?</p> <p>21 A. I can't remember but it was from one of</p> <p>22 them, Andrew.</p> <p>23 Q. And then on July 6th, 2001 the P&S</p> <p>24 required an \$8,000 additional deposit?</p>
<p style="text-align: right;">Page 143</p> <p>1 A. Yes.</p> <p>2 Q. Do you know what the passport savings</p> <p>3 account is?</p> <p>4 A. Yes.</p> <p>5 Q. What is that?</p> <p>6 A. Passbook, it's --</p> <p>7 Q. Passport?</p> <p>8 A. Port -- is it passbook?</p> <p>9 Q. Well, I'm asking you "passport"?</p> <p>10 A. I would say it's another terminology that</p> <p>11 they use at the bank where you have so much money in</p> <p>12 checking and savings.</p> <p>13 Q. Well, I understand that. Perhaps I'm</p> <p>14 using the wrong term but let me ask the question.</p> <p>15 Do you or your wife have a passport savings account?</p> <p>16 A. It could have been possible but I'm not</p> <p>17 sure.</p> <p>18 Q. Did you have a passbook savings account?</p> <p>19 A. I'm not sure. I'm not sure, Andrew.</p> <p>20 Q. Were you ever asked by Kevin Cogan what</p> <p>21 the source of the funds were for the down payment?</p> <p>22 A. Well, he knew because --</p> <p>23 Q. No, I didn't ask you that. I asked you if</p> <p>24 he asked you?</p>	<p style="text-align: right;">Page 145</p> <p>1 A. She took care of that.</p> <p>2 Q. Did you see her write a check for that?</p> <p>3 A. If I could remember, Andrew, it was either</p> <p>4 a check or a money order but it was disbursed if I</p> <p>5 could remember.</p> <p>6 Q. Did you ever tell Kevin Cogan what the</p> <p>7 source of the down payment was?</p> <p>8 A. No.</p> <p>9 Q. Was there ever any effort by anyone to</p> <p>10 support higher rental values for the Chilson Avenue</p> <p>11 property so you could solve the rental condition?</p> <p>12 MR. TROMBETTA: Well, I'll object to</p> <p>13 that question. Same objection.</p> <p>14 Q. To meet the rent condition?</p> <p>15 A. Come again, Andrew, I'm sorry?</p> <p>16 Q. Was there ever an effort by anyone to</p> <p>17 increase the rental value of the property to meet</p> <p>18 the rental condition in the final commitment letter?</p> <p>19 MR. TROMBETTA: And I object to the</p> <p>20 form of that question.</p> <p>21 A. Not that I'm aware.</p> <p>22 Q. Did you ever speak to a Mr. Gerner from</p> <p>23 Cendant Mortgage Corporation?</p> <p>24 A. Not that I could remember.</p>

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<p style="text-align: right;">Page 166</p> <p>1 that's based on?</p> <p>2 A. You're funny. I'm sorry, come again,</p> <p>3 Andrew?</p> <p>4 Q. Well, you're claiming lost rental income</p> <p>5 of more than \$200,000 in this action; do you know</p> <p>6 what that's based on?</p> <p>7 A. Loss of rental income, equity,</p> <p>8 appreciation and taxes.</p> <p>9 Q. Do you know what the costs were for the</p> <p>10 rental of the Chilson Avenue property?</p> <p>11 A. What do you mean, I'm sorry?</p> <p>12 Q. Well, you would rent the Chilson Avenue</p> <p>13 property, you would charge a certain amount of rent,</p> <p>14 but then you would have certain costs; do you have</p> <p>15 any idea what those costs were for rental?</p> <p>16 A. For those units?</p> <p>17 Q. Yes.</p> <p>18 A. I have no idea.</p> <p>19 Q. I'll tell you your -- look at your</p> <p>20 interrogatory answer and it says you're requesting a</p> <p>21 lost rental amount of over \$200,000; do you know how</p> <p>22 you calculated that?</p> <p>23 A. That would need an expert. I don't know.</p> <p>24 Q. Well, this is your interrogatory answer.</p>	<p style="text-align: right;">Page 168</p> <p>1 A. Okay.</p> <p>2 Q. Did you read this document before you</p> <p>3 signed it?</p> <p>4 A. I did.</p> <p>5 Q. Did you agree with everything in there</p> <p>6 before you signed it?</p> <p>7 A. Yes.</p> <p>8 Q. All right, I'm going to refer you to your</p> <p>9 answer to Interrogatory No. 8?</p> <p>10 A. Okay.</p> <p>11 Q. It's right here (indicating).</p> <p>12 Interrogatory No. 8 reads: If you</p> <p>13 contend that PHH Mortgage breached any contract or</p> <p>14 commitment identified in your answer to</p> <p>15 Interrogatories No. 6 or 7 state the basis for this</p> <p>16 contention. And your response was: Cendant</p> <p>17 breached its agreement by failing to provide a</p> <p>18 mortgage loan.</p> <p>19 Now, I know I've asked you about</p> <p>20 agreements but I'm going to have to ask you again.</p> <p>21 What agreement are you referring to in your answer</p> <p>22 to Interrogatory No. 8, either oral or written?</p> <p>23 A. It was written. They sent me guaranteed</p> <p>24 financing commitment letter and they said they were</p>
<p style="text-align: right;">Page 167</p> <p>1 How did you come up with \$200,000?</p> <p>2 MR. TROMBETTA: Well, I'm going to</p> <p>3 object to that. Now you ask a question.</p> <p>4 MR. GOLDSTEIN: Okay, I'll withdraw</p> <p>5 that question.</p> <p>6 Q. How did you come up with the number</p> <p>7 \$200,000 as lost rental amounts?</p> <p>8 MR. TROMBETTA: Same objection.</p> <p>9 A. I said loss of income rental from the time</p> <p>10 I lost it at the time of closing up until now and</p> <p>11 equity and appreciation and taxes.</p> <p>12 Q. Okay, but did you do some sort of</p> <p>13 calculation to come up with the number 200,000?</p> <p>14 A. I basically looked at rents, loss of rent.</p> <p>15 Q. Let me show you a document that is labeled</p> <p>16 Anthony Mendes Response to Defendant's First Set of</p> <p>17 Interrogatories which you signed on page 11 --</p> <p>18 A. Right.</p> <p>19 Q. -- under the penalties of perjury. Take a</p> <p>20 look at that document and make sure it's what I say</p> <p>21 it is and then I'm going to ask you a question.</p> <p>22 (Witness perusing document)</p> <p>23 A. Okay.</p> <p>24 (Witness perusing document)</p>	<p style="text-align: right;">Page 169</p> <p>1 going to honor this loan.</p> <p>2 Q. What is that, do you have that written</p> <p>3 agreement before you?</p> <p>4 A. It's here. It's guaranteed financing here</p> <p>5 (indicating), guaranteed, and also the commitment</p> <p>6 letter.</p> <p>7 Q. And the commitment letter provides that</p> <p>8 it's subject to appraisal to provide a net market</p> <p>9 rental for all three units for the area to evidence</p> <p>10 that PITI doesn't exceed 75 percent of the market</p> <p>11 rental. You can read that if you like.</p> <p>12 A. What number is that, Andrew? Read that to</p> <p>13 me again, Andrew, please?</p> <p>14 Q. On the bottom of Exhibit 7 the commitment</p> <p>15 letter, final commitment, states that, quote:</p> <p>16 Appraiser to provide the net market rental for all</p> <p>17 three units for the area to evidence that PITI</p> <p>18 doesn't exceed 75 percent of the market rental.</p> <p>19 A. I still qualified because also to obtain</p> <p>20 additional income to lower ratio which me and my</p> <p>21 spouse made that income.</p> <p>22 Q. Putting that parenthetical aside that you</p> <p>23 just referred to, do you know if the appraiser ever</p> <p>24 provided any documentation to Cendant Mortgage</p>

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1 Corporation that the net market rental for all three
2 units for the area to evidence a PITI doesn't exceed
3 75 percent of the market rental?
4 A. No.
5 Q. Was that, "no"?
6 A. No.
7 Q. Okay. Do you contend that you met this
8 condition because you also had additional income to
9 lower ratios?
10 A. Yes, yes, I do.
11 Q. When was the first time you communicated
12 that to Cendant Mortgage Corporation?
13 A. When did I?
14 Q. Yes.
15 A. When the application was given.
16 Q. Well, how did you communicate it?
17 A. Well, when he took the information over
18 the phone, asked me how much was I making, I told
19 him I do work overtime from time to time. My wife
20 works overtime so -- and she was working a second
21 job.
22 Q. So you're saying you provided evidence of
23 your income to Cendant Mortgage Corporation,
24 correct?

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1 A. Verbally over the phone on the
2 application.
3 Q. You say verbally on the phone and the
4 application?
5 A. Over -- related to the application.
6 Q. Okay, but as of June 12, 2001 you hadn't
7 provided any documentation to Cendant Mortgage
8 regarding your income?
9 MR. TROMBETTA: I object to that.
10 A. Excuse me?
11 Q. As of June 12th, 2001 had you provided any
12 information, any documentation to Cendant Mortgage
13 Corporation, to support what you were telling
14 Cendant what your income was?
15 A. Well, they took it over the phone and they
16 asked me for my taxes. I sent it in, sent my taxes
17 in.
18 Q. For what years?
19 A. 2001.
20 Q. When did you send your taxes in; do you
21 know?
22 A. Some time in May, June.
23 Q. Did you ever provide to Cendant a bank
24 statement to show where the \$9,000 deposit on the

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1 sales contract came from?
2 A. I believe that was met.
3 Q. Do you have that document?
4 A. I don't. It should be in the files.
5 Q. Well, I haven't seen it.
6 A. Well, that was all presented.
7 Q. How was it presented?
8 A. It had to be presented because they sent
9 me the commitment letter.
10 Q. Well, I don't have -- I'll tell you I
11 don't have any bank statements to show where the
12 \$9,000 deposit in the sales contract came from.
13 A. Well --
14 MR. TROMBETTA: Well, there's no
15 question.
16 Q. So I'm telling you that. Do you have
17 those bank statements that will show where the
18 \$9,000 deposit in the sales contract --
19 A. Well, you got copies from Citizens Bank.
20 Q. That's not what I'm asking you. Do you
21 have --
22 A. Not in my possession.
23 Q. Who has them?
24 A. Cendant has them.

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1 Q. Did you provide them to Cendant?
2 A. As far as I know, yes.
3 Q. How did you provide them?
4 A. I sent them to them.
5 Q. Now, I understand you testified that you
6 provided income information to Cendant Mortgage?
7 A. Right.
8 Q. But in regard to the conditions in the
9 commitment letter and the rental issue, did you ever
10 communicate to Cendant Mortgage in any way that you
11 felt that Cendant Mortgage had wrongfully denied the
12 mortgage?
13 MR. TROMBETTA: And I object to the
14 form of that question but you can answer.
15 A. The only time that they ever mentioned
16 anything was the last week of closing; that was it.
17 Nothing else was ever mentioned.
18 Q. And did you tell Cendant Mortgage
19 Corporation, anyone at Cendant Mortgage Corporation,
20 that you felt that Cendant Mortgage was wrongfully
21 denying you a loan based on that condition?
22 MR. TROMBETTA: Again, I object but
23 you can answer.
24 A. I don't remember. I don't remember.

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<p style="text-align: right;">Page 174</p> <p>1 Q. After the deal fell through?</p> <p>2 MR. GOLDSTEIN: Off the record for a</p> <p>3 second.</p> <p>4 (Off the record, 3:13 p.m. - 3:14</p> <p>5 p.m.)</p> <p>6 MR. GOLDSTEIN: Let's mark this as</p> <p>7 the next exhibit.</p> <p>8 (Document marked as Exhibit No. 13</p> <p>9 for identification.)</p> <p>10 MR. GOLDSTEIN: I apologize, I only</p> <p>11 have one again but it's not a big document.</p> <p>12 MR. TROMBETTA: Can we put all these</p> <p>13 exhibits somewhere?</p> <p>14 MR. GOLDSTEIN: Yes, let's clean this</p> <p>15 up.</p> <p>16 Q. Now, do you know what Exhibit 13 is?</p> <p>17 A. Yeah, it's the refund of the deposit.</p> <p>18 Q. All right, and these checks are dated</p> <p>19 September 26, 2001; is that when you got these</p> <p>20 checks about?</p> <p>21 A. Yes.</p> <p>22 Q. What's the bottom check by the way?</p> <p>23 A. I have no idea.</p> <p>24 Q. Okay, the top check, No. 21, is the refund</p>	<p style="text-align: right;">Page 176</p> <p>1 let's make it August 1st, 2001 to September 30th,</p> <p>2 2001. I want you to tell me every communication</p> <p>3 that you recall having with Cendant Mortgage</p> <p>4 Corporation regarding the Chilson Avenue property.</p> <p>5 A. The only thing I could remember that I</p> <p>6 spoke to Kevin Cogan a few times on finding out when</p> <p>7 the house was going to close and he says it's</p> <p>8 getting set up through a law firm; that we'll close</p> <p>9 at the end of August and he said don't worry, you're</p> <p>10 going to close, guaranteed financing.</p> <p>11 Q. Anything else?</p> <p>12 A. This was in August.</p> <p>13 Q. I'm saying August 1st, 2001, to September</p> <p>14 30th, 2001?</p> <p>15 A. I don't recollect any other communication</p> <p>16 other than in August. I don't remember.</p> <p>17 Q. Well, you already testified about a</p> <p>18 communication regarding the rental issue; that was</p> <p>19 in this time frame, August 1st, 2001 to September</p> <p>20 30th, 2001?</p> <p>21 A. Yeah, it was August rental and that was</p> <p>22 like the last week of August.</p> <p>23 Q. And tell me what was that communication,</p> <p>24 was that a phone call that you had or --</p>
<p style="text-align: right;">Page 175</p> <p>1 of deposit, right?</p> <p>2 A. Correct.</p> <p>3 Q. Now, after you got these checks when was</p> <p>4 the next communication you had with Cendant Mortgage</p> <p>5 Corporation?</p> <p>6 A. In September.</p> <p>7 Q. After September 26th, 2001 did you have</p> <p>8 another communication with Cendant Mortgage</p> <p>9 Corporation about this?</p> <p>10 A. No, no.</p> <p>11 Q. Have you had any communications with</p> <p>12 Cendant Mortgage since September 26, 2001?</p> <p>13 A. September 26?</p> <p>14 Q. 2001?</p> <p>15 A. (Pause)</p> <p>16 Q. That you recall?</p> <p>17 A. No.</p> <p>18 Q. All right, I need to go through something.</p> <p>19 I avoided asking this before but I'm going to ask it</p> <p>20 now. From August 1st, 2001 to September 26, 2001, I</p> <p>21 want you to tell me every communication you recall</p> <p>22 having with Cendant Mortgage regarding the loan?</p> <p>23 A. From what time now?</p> <p>24 Q. August 1st, 2001, to September 26, 2001 --</p>	<p style="text-align: right;">Page 177</p> <p>1 A. If I could remember -- if I could remember</p> <p>2 I called him.</p> <p>3 Q. Why did you call him?</p> <p>4 A. Because I was concerned about closing.</p> <p>5 Q. Well, what were you concerned about?</p> <p>6 A. Because me and my wife was -- been waiting</p> <p>7 quite some time.</p> <p>8 Q. All right, and you called Kevin Cogan?</p> <p>9 A. Yes.</p> <p>10 Q. Tell me everything that he said to you and</p> <p>11 you said to him during the conversation.</p> <p>12 A. He said the house is not going to closing.</p> <p>13 Q. Okay?</p> <p>14 A. Because it was related to rents and I said</p> <p>15 I did not know anything about it.</p> <p>16 Q. Anything else that was said?</p> <p>17 A. That was it if I could remember.</p> <p>18 Q. You said you knew nothing about it?</p> <p>19 A. No, I knew nothing about it.</p> <p>20 Q. Is that because you hadn't read the</p> <p>21 commitment letter?</p> <p>22 MR. TROMBETTA: Well, I object to</p> <p>23 that.</p> <p>24 A. I read some of it. I didn't read all of</p>

45 (Pages 174 to 177)

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<p style="text-align: right;">Page 190</p> <p>1 Q. So is your earlier testimony inaccurate?</p> <p>2 MR. TROMBETTA: Well, I object.</p> <p>3 Q. Did Cendant ever propose to you that you</p> <p>4 utilize conventional financing, yes, or no?</p> <p>5 A. No.</p> <p>6 Q. Turn to the next page, please, page 5.</p> <p>7 A. Okay.</p> <p>8 Q. There's a Count 2 heading, Breach of</p> <p>9 Implied Contract?</p> <p>10 A. Right.</p> <p>11 Q. And why don't you read paragraph 31 into</p> <p>12 the record?</p> <p>13 A. Cendant represented that it would provide</p> <p>14 home financing in the amount of \$307,545.</p> <p>15 Q. Okay, and what representation was that?</p> <p>16 A. And when they provided me guaranteed</p> <p>17 financing.</p> <p>18 Q. And that was by the June 12th, 2001</p> <p>19 letter?</p> <p>20 A. Yes.</p> <p>21 Q. How was this breach of implied contract</p> <p>22 claim different from the breach of contract claim?</p> <p>23 MR. TROMBETTA: I'm going to object.</p> <p>24 You know, these are legal issues. I'll object. I</p>	<p style="text-align: right;">Page 192</p> <p>1 Q. How was that representation made?</p> <p>2 A. Through the application.</p> <p>3 Q. Well, how did Cendant communicate to you</p> <p>4 that it was going to provide you a guaranteed</p> <p>5 financing?</p> <p>6 MR. TROMBETTA: I'm going to object,</p> <p>7 asked and answered.</p> <p>8 A. Like I said, the application.</p> <p>9 Q. Anything else?</p> <p>10 A. No.</p> <p>11 Q. Did any other oral communications make up</p> <p>12 the representation that you've just testified to?</p> <p>13 A. No.</p> <p>14 Q. Any documents that make up the</p> <p>15 representation that you just testified to?</p> <p>16 A. The letter they sent me.</p> <p>17 Q. Which letter?</p> <p>18 A. The commitment letter and the letter that</p> <p>19 they sent me to guaranteed financing. Right here</p> <p>20 (indicating).</p> <p>21 Q. So Exhibits 4, 5 and 7?</p> <p>22 A. Right.</p> <p>23 Q. Do any other documents make up part of the</p> <p>24 representation that's referenced in paragraph 31?</p>
<p style="text-align: right;">Page 191</p> <p>1 don't believe it's -- I think these questions are</p> <p>2 inappropriate. You can answer the questions but I</p> <p>3 object.</p> <p>4 A. Basically the house never went to closing.</p> <p>5 Q. Okay, let's go back to paragraph 31; that</p> <p>6 Cendant represented that it would provide home</p> <p>7 financing in the amount of \$307,545; other than what</p> <p>8 you've testified did Cendant make any other</p> <p>9 representations in this regard?</p> <p>10 A. The question again, Andrew?</p> <p>11 Q. Well, you testified -- well, other than</p> <p>12 what you've testified to just a few moments ago, are</p> <p>13 there any other representations that are referenced</p> <p>14 in paragraph 31 of the complaint by which you allege</p> <p>15 Cendant represented that it would provide home</p> <p>16 financing in the amount of \$307,545?</p> <p>17 A. Well, that's what they provided for me.</p> <p>18 Q. I'm asking you about the representations?</p> <p>19 A. Well, it was never delivered.</p> <p>20 Q. You know, we're just going to have to</p> <p>21 start again. What representations did Cendant make</p> <p>22 to you that it would provide home financing in the</p> <p>23 amount of \$307,545?</p> <p>24 A. Guaranteed financing.</p>	<p style="text-align: right;">Page 193</p> <p>1 A. No.</p> <p>2 Q. How were you harmed by -- well, strike</p> <p>3 that. Go to paragraph 38.</p> <p>4 A. Okay.</p> <p>5 Q. In that paragraph you state that Cendant</p> <p>6 misrepresented that an offer to provide conventional</p> <p>7 financing to you; how were you harmed by that</p> <p>8 misrepresentation?</p> <p>9 A. How was I harmed by that?</p> <p>10 Q. Right.</p> <p>11 A. I mean, knowing the fact somebody submits</p> <p>12 an application we're approved, first time buyer,</p> <p>13 they take the income, they pull the credit report,</p> <p>14 they guaranteed us financing. How would somebody</p> <p>15 come up with 20 percent to buy their home, first</p> <p>16 time buyer? I never heard of it.</p> <p>17 Q. You couldn't come up with 20 percent?</p> <p>18 A. Right.</p> <p>19 Q. But you couldn't come up with 10 percent?</p> <p>20 A. But I could have come up with 5 percent.</p> <p>21 Q. In this paragraph 38 you represent</p> <p>22 Cendant's refusal to provide financing to Mr. and</p> <p>23 Mrs. Mendes and its misrepresentation that it</p> <p>24 offered to provide conventional financing to them;</p>

49 (Pages 190 to 193)

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<p>1 A. Yes. 2 (Document marked as Exhibit No. 19 3 for identification.) 4 Q. Do you recognize Exhibit 19? 5 A. Yes. 6 Q. What's the title on the top of this 7 document? 8 A. It says FHA Amendatory Clause. 9 Q. Is this a document you signed in 10 connection with your application to obtain a loan 11 from Cendant Mortgage? 12 MR. TROMBETTA: Well, I object to 13 that. You can answer the question. 14 A. Yes, I remember signing it. 15 (Document marked as Exhibit No. 20 16 for identification.) 17 Q. Do you recognize Exhibit 20? 18 A. Excuse me? 19 Q. Do you recognize Exhibit 20? 20 A. Yeah, my signature's here. 21 Q. Okay, do you recognize the document 22 separate from your signature? 23 A. I didn't understand it much but I -- told 24 me to sign it and send it in.</p>	<p>1 A. I think so. 2 (Document marked as Exhibit No. 22 3 for identification.) 4 Q. Do you recognize Exhibit 22 which is 5 similar to 21 except it has two signatures? 6 A. Basically it's the tax returns. 7 Q. Is your signature on it? 8 A. Yes. 9 Q. Is it a document you signed in connection 10 with your proposed purchase of the Chilson Avenue 11 property? 12 A. Yes. 13 (Document marked as Exhibit No. 23 14 for identification.) 15 Q. Do you recognize Exhibit 23? 16 A. Yes, I do, Andrew. 17 Q. What is this? 18 A. Basically where I was working, position. 19 Q. Was this a letter that you obtained for 20 your proposed purchase of the Chilson Avenue 21 property? 22 A. Yes, Andrew. 23 Q. What was this letter for, do you know? 24 A. To send to Cendant of the income that I'm</p>
Page 199	Page 201
<p>1 Q. Okay, is that what you did? 2 A. Yeah. 3 Q. Did you read the title before you signed 4 this FHA Purchase Agreement Addendum? 5 A. No, not really. 6 Q. Are you always in the habit of not reading 7 documents that you sign? 8 A. I was just so excited and wanted to buy a 9 house and move on. Didn't know much about anything. 10 Q. You did buy a house, correct? 11 A. I own one now. 12 (Document marked as Exhibit No. 21 13 for identification.) 14 Q. Do you recognize Exhibit 21? 15 A. Yes, my signature's on it. 16 Q. Is this a document you executed in regard 17 to your proposed purchase of the Chilson Avenue 18 property? 19 A. Yes. 20 Q. Did you know what this was for when you 21 signed it? 22 A. Not really. Not really. 23 Q. Now, was this to get a copy of your tax 24 returns?</p>	<p>1 making and the overtime that I work because they 2 wanted it. 3 Q. So this was to substantiate the income 4 that you had orally informed Richard Luongo of? 5 A. Exactly. Exactly. 6 (Document marked as Exhibit No. 24 7 for identification.) 8 Q. This is a letter I put before you that's 9 marked as Exhibit 24 concerning Doris Mendes but 10 did you have any involvement in securing this 11 letter? 12 A. Yes, well, I gave this information to the 13 applicant. 14 Q. To the applicant? 15 A. I mean, the person at Cendant, Richard 16 Luongo. 17 Q. Did he ask you to get this information? 18 A. Yes. 19 Q. Did he ask you to get the information in 20 Exhibit 23? 21 A. Yes. 22 Q. And that was to substantiate in Exhibit 24 23 your wife's income? 24 A. Right, and this is her part-time job.</p>

51 (Pages 198 to 201)

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1 (Document marked as Exhibit No. 25
 2 for identification.)
 3 Q. Do you recognize Exhibit 25?
 4 A. My signature's on it, yeah.
 5 Q. Well, do you know what it is?
 6 A. Not really.
 7 Q. If you look halfway down there's something
 8 that is referred to as a Mortgagor's Oath; do you
 9 see that?
 10 A. Yes.
 11 Q. Underneath, it says: I, Anthony P.
 12 Mendes, being first duly sworn, do hereby certify
 13 and say that I am the mortgagor who executed the
 14 foregoing contract and I am familiar with the
 15 provisions of Section 513(a) of the National Housing
 16 Act, as amended, as set forth in part of the reverse
 17 hereof. I do further certify that so long as any
 18 part of the housing identified in the caption of
 19 said contract is subject to a mortgage insured under
 20 said National Housing Act, as amended, I will not
 21 rent or offer for rent, or permit such housing to be
 22 rented or offered for rent for hotel or transient
 23 purposes; was that statement true when you signed
 24 it?

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1 A. Basically. I didn't understand much of
 2 it.
 3 Q. So you didn't understand the provision of
 4 Section 513(a), the Housing Act, when you signed it?
 5 A. No.
 6 Q. Did you read the top of this document when
 7 you signed this document?
 8 A. I don't remember, no. But that's my
 9 signature.
 10 MR. TROMBETTA: Can we take a break?
 11 (A brief recess was taken, 3:55 p.m.
 12 - 4:03 p.m.)
 13 (Documents marked as Exhibit Nos. 26
 14 and 27 for identification.)
 15 MR. GOLDSTEIN: I do have a stack of
 16 documents that were brought down to me that I don't
 17 think I need to go over. I assume you will be
 18 reasonable regarding authentication of documents
 19 like his purchase of his house and things like that.
 20 MR. TROMBETTA: Assuming you will be,
 21 too.
 22 THE WITNESS: I'm pretty sure that
 23 they're the same thing, Andrew.
 24 MR. TROMBETTA: If you'll be

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1 reasonable I'll be reasonable.
 2 Q. All right, let me show you Exhibit 26; is
 3 that a document you recognize?
 4 A. Excuse me, Andrew?
 5 Q. Do you recognize that document, Exhibit
 6 26?
 7 MR. TROMBETTA: Do you have a copy
 8 for me?
 9 MR. GOLDSTEIN: I'm sorry, do I? No,
 10 but you can have this.
 11 (Document presented)
 12 A. Yes, I do, Andrew.
 13 Q. What is it?
 14 A. It's a loan application.
 15 Q. Is that something you received from
 16 Cendant Mortgage Corporation?
 17 A. No, no, I didn't receive this.
 18 Q. Do you recall ever signing any loan
 19 application?
 20 A. No, Andrew.
 21 Q. None?
 22 A. Look it, there's -- Andrew, there's not
 23 even a signature on here.
 24 MR. TROMBETTA: This is what, 26?

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1 MR. GOLDSTEIN: Correct.
 2 Q. I asked you if you recognize this, you
 3 said, yes. Are you just reading what the document
 4 is?
 5 A. Just reading it as you presented it to
 6 me.
 7 Q. Right, but when I ask you if you can
 8 identify a document, I want you to tell me if you
 9 know what it is as opposed to some prior familiarity
 10 with the document as opposed to just reading what it
 11 is?
 12 MR. TROMBETTA: What are you asking
 13 him?
 14 Q. Did you get that document from Cendant
 15 Mortgage Corporation at some point?
 16 A. No, no.
 17 Q. All right. I'm going to show you 27. Is
 18 your signature on the second page of 27?
 19 A. Yes, it is, Andrew.
 20 Q. Do you know what you signed this document
 21 in connection with?
 22 A. One second, please, Andrew.
 23 (Witness perusing document)
 24 A. No, not really.

52 (Pages 202 to 205)

Anthony Mendes

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<p style="text-align: right;">Page 214</p> <p>1 just take that off.</p> <p>2 Q. Is this letter connected with your</p> <p>3 proposed purchase of the Chilson Avenue property?</p> <p>4 A. I'm not sure, Andrew.</p> <p>5 Q. I'll tell you this document and the last</p> <p>6 document were in the PHH Mortgage or Cendant</p> <p>7 Mortgage files. Do you know why you may have sent</p> <p>8 these documents to Cendant Mortgage?</p> <p>9 A. I have no idea, Andrew.</p> <p>10 Q. Do you have an account at the CrossCountry</p> <p>11 Bank?</p> <p>12 A. There was a credit card, Andrew.</p> <p>13 Q. Okay.</p> <p>14 (Document marked as Exhibit No. 35</p> <p>15 for identification.)</p> <p>16 Q. Is this a letter that you received from</p> <p>17 CrossCountry bank?</p> <p>18 A. Yes.</p> <p>19 Q. Again, this was in the files of Cendant</p> <p>20 Mortgage now PHH Mortgage. Do you know what this</p> <p>21 has to do with your proposed purchase of the Chilson</p> <p>22 Avenue property?</p> <p>23 A. No, I have no idea.</p> <p>24 Q. Were you ever working to get any repairs</p>	<p style="text-align: right;">Page 216</p> <p>1 value for Kevin and he was taking care of it and</p> <p>2 that was it. I didn't hear no more about it.</p> <p>3 MR. GOLDSTEIN: Could you read that</p> <p>4 answer back?</p> <p>5 (*Record read as requested)</p> <p>6 Q. Were you ever told that you needed three</p> <p>7 months reserves to purchase the property?</p> <p>8 A. No.</p> <p>9 Q. Did Cendant Mortgage ever tell you that</p> <p>10 you had met all the conditions in the final</p> <p>11 commitment letter?</p> <p>12 MR. TROMBETTA: Well, I'll object but</p> <p>13 you can answer.</p> <p>14 A. I'm sorry, come again, please, Andrew?</p> <p>15 Q. Did anyone at Cendant Mortgage ever tell</p> <p>16 you that you had met all of the conditions in the</p> <p>17 final commitment letter?</p> <p>18 MR. TROMBETTA: Same objection. You</p> <p>19 can answer.</p> <p>20 A. No.</p> <p>21 Q. Have you refinanced your School Street</p> <p>22 property lately?</p> <p>23 A. I have.</p> <p>24 Q. When was the last time you refinanced it?</p>
<p style="text-align: right;">Page 215</p> <p>1 done at the Chilson Avenue property?</p> <p>2 A. Was I?</p> <p>3 Q. Yes.</p> <p>4 A. No, no.</p> <p>5 Q. Any repairs regarding any electrical work</p> <p>6 or the --</p> <p>7 A. No, he mentioned it and -- and I had an</p> <p>8 electrician come and he wrote a letter and I thought</p> <p>9 it was in the documents. I sent it to him and I</p> <p>10 don't know where it is.</p> <p>11 Q. I just want to make clear, is it your</p> <p>12 testimony that you don't recall any real estate</p> <p>13 agent --</p> <p>14 A. Real estate agent?</p> <p>15 Q. -- helping to find comparables to adjust</p> <p>16 up the market rental values of the Chilson Avenue</p> <p>17 property?</p> <p>18 A. Come again, I'm sorry, Andrew?</p> <p>19 Q. Do you recall any real estate agent in any</p> <p>20 way helping to find comparables to adjust up the</p> <p>21 rental value of the Chilson Avenue property?</p> <p>22 A. The only one I ever heard was Greg Abbot.</p> <p>23 Q. Well, what did you hear about that?</p> <p>24 *A. He just said that he was looking at market</p>	<p style="text-align: right;">Page 217</p> <p>1 A. Couple of years ago.</p> <p>2 Q. Did you get an appraisal with the property</p> <p>3 in connection with the refinancing?</p> <p>4 A. If I could remember, yes, Andrew.</p> <p>5 Q. You say if you could remember, yes; is</p> <p>6 that, yes, or --</p> <p>7 A. Yes, yes.</p> <p>8 Q. Do you have that appraisal at home?</p> <p>9 A. I don't think so.</p> <p>10 Q. Do you know who did the appraisal?</p> <p>11 A. Excuse me?</p> <p>12 Q. Do you know who did the appraisal?</p> <p>13 A. I can't remember the name of the company</p> <p>14 but there was an appraisal done.</p> <p>15 MR. TROMBETTA: Didn't we give you an</p> <p>16 appraisal of that property?</p> <p>17 MR. GOLDSTEIN: Maybe you did, I</p> <p>18 don't remember.</p> <p>19 A. I think so.</p> <p>20 MR. TROMBETTA: I thought we did.</p> <p>21 MR. GOLDSTEIN: Well, I know you did</p> <p>22 but I think it's the original. I'm talking about</p> <p>23 refinance.</p> <p>24 Q. Has that property appreciated in value in</p>

55 (Pages 214 to 217)

EXHIBIT B

Volume: I

Pages: 1-57

Exhibits: 1-7

COMMONWEALTH OF MASSACHUSETTS

Bristol, ss Superior Court

CA No. B05-809

-----x

ANTHONY MENDES and DORIS MENDES,

Plaintiffs,

vs.

CENDANT MORTGAGE,

Defendant.

-----x

DEPOSITION OF DORIS MENDES

September 8, 2006

10:18 a.m.

Foley & Lardner

111 Huntington Street

Boston, Massachusetts

Reporter: Nancy L. LaCivita

<p style="text-align: right;">2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 LAW OFFICE OF CHRISTOPHER J. TROMBETTA</p> <p>4 310 North Main Street</p> <p>5 Suite Six</p> <p>6 Mansfield, Massachusetts 02048</p> <p>7 (508) 339-5900</p> <p>8 On Behalf of the Plaintiffs</p> <p>9</p> <p>10 FOLEY & LARDNER</p> <p>11 By Andrew K. Goldstein, Esquire</p> <p>12 111 Huntington Avenue</p> <p>13 Boston, Massachusetts 02199</p> <p>14 (617) 342-4000</p> <p>15 On Behalf of the Defendant</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">4</p> <p>1 PROCEEDINGS</p> <p>2 ***</p> <p>3 DORIS MENDES, having been satisfactorily</p> <p>4 identified and duly sworn by the Notary Public, was</p> <p>5 examined and testified as follows:</p> <p>6 ***</p> <p>7 DIRECT EXAMINATION</p> <p>8 BY MR. GOLDSTEIN:</p> <p>9 Q. Would you please state your name.</p> <p>10 A. Doris Mendes.</p> <p>11 Q. Ms. Mendes, my name is Andy Goldstein. I</p> <p>12 represent PHH Mortgage which used to be known as</p> <p>13 Cendant Mortgage and you have filed a lawsuit against</p> <p>14 Cendant Mortgage. Do you understand that?</p> <p>15 A. Yes.</p> <p>16 Q. I'm going to ask you some questions today</p> <p>17 about the facts that give rise to the lawsuit.</p> <p>18 A. Okay.</p> <p>19 Q. If you don't hear a question, please tell me</p> <p>20 and I will repeat it. And if you don't understand a</p> <p>21 question, please tell me you don't understand and I</p> <p>22 will try to rephrase the question so that you do</p> <p>23 understand it.</p> <p>24 A. Okay.</p>
<p style="text-align: right;">3</p> <p>1 INDEX</p> <p>2 EXAMINATION OF: PAGE</p> <p>3 DORIS MENDES</p> <p>4 By Mr. Goldstein 4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11 EXHIBITS</p> <p>12 NO. PAGE</p> <p>13 1 Copy of Check 44</p> <p>14 2 Copy of Check 44</p> <p>15 3 Copy of Check 45</p> <p>16 4 Copy of Income Tax Return 46</p> <p>17 5 Bank Statements 46</p> <p>18 6 Bank Statements 50</p> <p>19 7 Bank Statements 51</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24 *Original exhibits retained by Andrew K. Goldstein.</p>	<p style="text-align: right;">5</p> <p>1 Q. If you don't remember the information</p> <p>2 necessary to answer a question, you can say I don't</p> <p>3 remember. That's an acceptable answer. If you don't</p> <p>4 know the answer to a question, say I don't know. That</p> <p>5 is an acceptable answer, too.</p> <p>6 A. Okay.</p> <p>7 Q. I'm only trying to find out what you remember</p> <p>8 today.</p> <p>9 A. Okay.</p> <p>10 Q. If I talk too fast, not only will the court</p> <p>11 reporter tell me to slow down, but you can tell me to</p> <p>12 slow down, too. One of my many faults is sometimes I</p> <p>13 speed up. I always ask witnesses this one question, so</p> <p>14 don't take it personally. Once in a while someone says</p> <p>15 yes. Is there anything that impairs your ability to</p> <p>16 accurately answer questions today?</p> <p>17 A. Depends. Some words if I don't understand, I</p> <p>18 will ask you that.</p> <p>19 Q. Anything else?</p> <p>20 A. No.</p> <p>21 Q. Are you on any medication that impairs your</p> <p>22 ability?</p> <p>23 A. No.</p> <p>24 MR. TROMBETTA: The only thing I do</p>

2 (Pages 2 to 5)

Doris Mendes

09/08/2006

6

1 want to point out is her primary language is Spanish
 2 just so you know that with respect to understanding.
 3 I'm not saying it's going to be the easiest thing for
 4 her, but if she says she doesn't understand certain
 5 words, that is one of the reasons.
 6 MR. GOLDSTEIN: I will keep that in
 7 mind.
 8 Q. If you don't understand a word or a sentence
 9 or a question, just tell me. I will try to rephrase
 10 it. My Spanish is rusty, so I won't try that. Also,
 11 you're going to anticipate the answer to questions that
 12 I'm asking, but please try to let me finish the
 13 question because the court reporter has a difficult
 14 time taking down both of us talking at the same time.
 15 She is typing everything we are saying. And also,
 16 we're trying to create a record where there is a
 17 question and an answer. Now, you understand this
 18 lawsuit deals with property on Chilson Avenue in
 19 Mansfield?
 20 A. Can you repeat the question?
 21 Q. This lawsuit you filed against Cendant
 22 Mortgage involves a property on Chilson Avenue in
 23 Mansfield, correct?
 24 A. Yes.

7

1 Q. Have you ever spoken with anyone at Cendant
 2 Mortgage about this lawsuit?
 3 A. Yes.
 4 Q. Let me rephrase that. That's not what I was
 5 expecting.
 6 MR. TROMBETTA: I don't think that's
 7 what she meant, but anyway.
 8 Q. In the summer of 2001, you were attempting to
 9 get a loan?
 10 A. Yes.
 11 Q. To purchase Chilson Avenue, correct?
 12 A. Yes.
 13 Q. Did you ever speak to anyone at Cendant
 14 Mortgage about that loan?
 15 A. No. My husband spoke to them.
 16 Q. When you said yes a minute ago, what did you
 17 mean? I asked you if you had ever spoken to anyone at
 18 Cendant Mortgage about the lawsuit and you said yes.
 19 A. I didn't understand.
 20 MR. TROMBETTA: I think when you say
 21 about the lawsuit, I think if you take that out, she
 22 may be able to answer the question.
 23 MR. GOLDSTEIN: That's what I did.
 24 MR. TROMBETTA: But you said it again.

8

1 I'm not telling you what to do.
 2 MR. GOLDSTEIN: Well, she said yes to
 3 that. So I was curious about that.
 4 MR. TROMBETTA: Well, you can ask her,
 5 but I don't think she did.
 6 Q. Have you ever you, yourself, spoken to anyone
 7 at Cendant Mortgage about the lawsuit?
 8 A. No.
 9 Q. Have you ever spoken to anyone at Cendant
 10 Mortgage, as far as you know?
 11 A. No.
 12 Q. Have you ever spoken with Richard Luongo?
 13 A. I don't know. I don't remember.
 14 Q. So it's true that your husband Anthony Mendes
 15 dealt with Cendant Mortgage in the summer of 2001,
 16 correct?
 17 A. Yes.
 18 Q. And you didn't have any telephone calls with
 19 anyone at Cendant Mortgage about trying to obtain a
 20 loan to buy the Chilson Avenue property?
 21 MR. TROMBETTA: I will object. You can
 22 answer.
 23 THE WITNESS: Excuse me?
 24 MR. TROMBETTA: You can answer the

9

1 question.
 2 A. Can you repeat the question?
 3 Q. Sure. Your attorney will object from time to
 4 time if he thinks that I did not properly ask the
 5 question, but you still answer the question unless your
 6 attorney instructs you otherwise, of course. Let's
 7 move on. Let me get your background. Where were you
 8 born?
 9 A. South America.
 10 Q. What country?
 11 A. Lima, Peru.
 12 Q. At some point you moved to the United States
 13 obviously. When was that?
 14 A. When what?
 15 Q. When did you move to the United States?
 16 A. 1977.
 17 Q. When were you born?
 18 A. 1959.
 19 Q. Spanish is your first language?
 20 A. Yes.
 21 Q. So you moved to the United States when you
 22 were eight years old?
 23 A. No, 1977.
 24 Q. How old were you when you moved to the United

3 (Pages 6 to 9)

<p style="text-align: right;">10</p> <p>1 States?</p> <p>2 A. 16, 17.</p> <p>3 Q. When were you born?</p> <p>4 A. 1959.</p> <p>5 Q. Okay. Did you learn English in Peru at all?</p> <p>6 A. No.</p> <p>7 Q. Did you graduate from high school?</p> <p>8 A. In my country, yes.</p> <p>9 Q. Did you get any additional formal education</p> <p>10 beyond high school?</p> <p>11 A. Here?</p> <p>12 Q. Anywhere.</p> <p>13 A. No. I came here and I went to school for</p> <p>14 English classes -- English course.</p> <p>15 Q. Did you go to college?</p> <p>16 A. No.</p> <p>17 Q. Do you have any degrees beyond high school?</p> <p>18 MR. TROMBETTA: Well, I object to that.</p> <p>19 She didn't go to college so --</p> <p>20 MR. GOLDSTEIN: Well, she could have</p> <p>21 some other type of degree. I won't spend a lot of time</p> <p>22 on this.</p> <p>23 MR. TROMBETTA: I don't know if it</p> <p>24 would be a degree, but you can answer the question</p>	<p style="text-align: right;">12</p> <p>1 A. Yes.</p> <p>2 Q. Did you have any other employment in 2001</p> <p>3 besides those two jobs?</p> <p>4 A. After I left the Arbor Hospital, I went to</p> <p>5 another job. It was close to my house.</p> <p>6 Q. What job was that?</p> <p>7 A. I went to Avery Manor in Needham.</p> <p>8 MR. TROMBETTA: I don't mean to object,</p> <p>9 but did you hear what he said about the time period?</p> <p>10 MR. GOLDSTEIN: I was going to go back</p> <p>11 to that.</p> <p>12 Q. In 2001 you were working at Deutsches</p> <p>13 Altenheim and Arbor Hospital?</p> <p>14 A. Yes.</p> <p>15 Q. During 2001 did you have any other</p> <p>16 employment?</p> <p>17 MR. TROMBETTA: Do you understand?</p> <p>18 A. No, I don't understand.</p> <p>19 Q. In 2001 -- beginning from January 2001</p> <p>20 through December 2001 other than these two jobs, did</p> <p>21 you have any other jobs?</p> <p>22 A. The Arbor Hospital.</p> <p>23 Q. I have those two. Was there a third job?</p> <p>24 A. No.</p>
<p style="text-align: right;">11</p> <p>1 anyway.</p> <p>2 A. I don't have a degree. I'm a certified</p> <p>3 nursing assistant.</p> <p>4 Q. Did you go to school for that?</p> <p>5 A. Yes.</p> <p>6 Q. Where?</p> <p>7 A. My job. They gave the class on the job.</p> <p>8 Q. In 2001 what was your employment status?</p> <p>9 Where were you working in 2001?</p> <p>10 A. I was working at the Arbor Hospital and</p> <p>11 Deutsches Altenheim.</p> <p>12 Q. Can you spell that?</p> <p>13 A. D-E-U-T-S-C-H-E-S, A-L-T-E-N-H-E-I-M.</p> <p>14 Q. You were working at Deutsches Altenheim and</p> <p>15 the Arbor Hospital?</p> <p>16 A. Arbor Hospital.</p> <p>17 Q. Are you still working at those two places?</p> <p>18 A. No. I work at Deutsches Altenheim and I am</p> <p>19 working somewhere else.</p> <p>20 Q. For what period of time did you work at the</p> <p>21 Arbor Hospital?</p> <p>22 A. I work almost four years, five years. From</p> <p>23 1998 to almost 2003.</p> <p>24 Q. You're still at Deutsches Altenheim?</p>	<p style="text-align: right;">13</p> <p>1 Q. All right. Are you able to read English?</p> <p>2 A. I can read, but my husband does the most</p> <p>3 reading for me. Sometimes he will try to explain to</p> <p>4 me.</p> <p>5 Q. I want to focus you on 2001 regarding my next</p> <p>6 series of questions. I'm only asking about 2001. What</p> <p>7 bank accounts did you have in 2001?</p> <p>8 A. There was -- I had Metropolitan Credit Union.</p> <p>9 There was Bank of Boston at that time and Fleet.</p> <p>10 Q. That's the same, Fleet and Bank of Boston?</p> <p>11 A. Yes. Boston Five, I think.</p> <p>12 Q. Boston Five?</p> <p>13 A. Yes. Now it is Citizen's Bank.</p> <p>14 Q. Anything else?</p> <p>15 A. I don't remember.</p> <p>16 Q. So I'm not sure I understand. You said Bank</p> <p>17 of Boston Fleet, is that one account?</p> <p>18 A. No. That was different account.</p> <p>19 Q. You had an account at Bank of Boston and</p> <p>20 Fleet?</p> <p>21 A. And Fleet.</p> <p>22 Q. Is Boston Five and Citizen's a different</p> <p>23 account?</p> <p>24 A. No. At that time Boston Five, but now it's</p>

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